

Senate File 463 - Introduced

SENATE FILE _____
BY COMMITTEE ON WAYS AND
MEANS

(SUCCESSOR TO SSB 1307)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act modifying provisions relating to the regulation of delayed
2 deposit service businesses, making penalties applicable, and
3 providing an effective date.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2690SV 83
6 rn/sc/8

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1 1 Section 1. Section 533D.3, subsection 3, paragraph a, Code
2 2009, is amended to read as follows:
3 a. An application fee of one hundred ~~twenty-five~~ dollars.
4 Sec. 2. Section 533D.9, subsection 2, Code 2009, is
5 amended by adding the following new paragraph:
6 NEW PARAGRAPH. e. That the licensee cannot initiate debt
7 collection procedures, civil court proceedings, or arbitration
8 to collect an unpaid check unless the licensee has provided
9 the maker of the check the opportunity to repay the obligation
10 without any additional charges, other than the penalty
11 provided in paragraph "d" of this subsection, in biweekly
12 payments of not more than ten percent of the face of the check
13 until the debt is paid in full. Additionally, that during
14 this repayment period the licensee may not transfer or sell
15 the debt owing on the unpaid check, and the loan shall not be
16 considered to be in default. Further that the maker of the
17 check's failure to make a biweekly payment under this
18 paragraph shall place the loan in default and the licensee
19 may, after proper notice, exercise rights against the maker
20 under the law.
21 Sec. 3. Section 533D.10, subsection 1, Code 2009, is
22 amended to read as follows:
23 1. A licensee shall not do any of the following:
24 a. Hold from any one maker more than two checks at any one
25 time.
26 b. Hold from any one maker a check or checks in an
27 aggregate face amount of more than five hundred dollars at any
28 one time.
29 c. Hold or agree to hold a check for ~~more~~ less than
30 ~~thirty-one~~ fourteen days.
31 d. Require the maker to receive payment by a method which
32 causes the maker to pay additional or further fees and charges
33 to the licensee or another person.
34 e. Repay, refinance, or otherwise consolidate a postdated
35 check transaction with the proceeds of another postdated check
36 transaction made by the same licensee. A licensee may not
37 enter into another transaction with the maker of a check if
38 the licensee presently has a transaction outstanding with the
39 maker or if the maker had a previous transaction with the
40 licensee within two days of the new transaction, unless the
41 licensee has provided the following notice both verbally and
42 in writing, and the maker has acknowledged receipt of the
43 notice with a signature and date:
44 Notice to Borrower
45 1. The licensee may not repay, refinance, or otherwise
46 consolidate a postdated check transaction with the proceeds of
47 another postdated check transaction made by the same licensee.
48 2. While a licensee may charge a penalty if a check is not
49 negotiable on the date agreed upon, the penalty shall not

2 15 exceed fifteen dollars. This penalty shall only be collected
2 16 by the licensee once on a check no matter how long that check
2 17 remains unpaid. This penalty is the only additional charge a
2 18 lender may charge you (the borrower) when a check is not
2 19 negotiable on the date agreed upon.
2 20 3. If your check is not negotiable on the date agreed
2 21 upon, the licensee must provide you (the borrower) the
2 22 opportunity to repay the obligation without any additional
2 23 charges, other than the penalty described above, in biweekly
2 24 payments of not more than ten percent of the face of the check
2 25 until the debt is paid in full.
2 26 By signing and dating this notice, you acknowledge the
2 27 statements above, but yet still desire to obtain another loan
2 28 with the licensee.
2 29 Borrower(s) signature: _____ Date: _____
2 30 Borrower(s) signature: _____ Date: _____
2 31 f. Receive any other charges or fees in addition to the
2 32 fees listed in section 533D.9, subsections 1 and 2.
2 33 g. Initiate debt collection procedures, civil court
2 34 proceedings, or civil or private arbitration proceedings to
2 35 collect an unpaid check unless the licensee has provided the
3 1 maker the opportunity to repay the obligation without any
3 2 additional charges, other than the penalty provided in section
3 3 533D.9, subsection 2, paragraph "d", in biweekly payments of
3 4 not more than ten percent of the face of the check until the
3 5 debt is paid in full. During this repayment period the
3 6 licensee may not transfer or sell the debt owing on the unpaid
3 7 check, and the loan shall not be considered to be in default.
3 8 The failure of the maker of the check to make a biweekly
3 9 payment as required shall place the loan in default and the
3 10 licensee may, after proper notice, exercise rights against the
3 11 maker under the law.
3 12 Sec. 4. Section 533D.10, subsection 1, Code 2009, is
3 13 amended by adding the following new paragraph:
3 14 NEW PARAGRAPH. h. Enter into a delayed deposit service
3 15 transaction which will cause the maker of the check, when all
3 16 other delayed deposit service transactions entered into with
3 17 any licensee involving the maker of the check are accounted
3 18 for, and when the term of the transaction is aggregated with
3 19 the other transactions, to be indebted for a period exceeding
3 20 ninety days during the preceding twelve-month period. For
3 21 purposes of this paragraph, if the maker of the check has
3 22 entered into more than one delayed deposit service transaction
3 23 with the same or another licensee, and the periods during
3 24 which the transactions are outstanding overlap, each day of
3 25 each respective transaction shall be counted in satisfying the
3 26 ninety-day restriction. For purposes of this paragraph, if a
3 27 maker of a check is making biweekly payments during a
3 28 repayment period as provided in section 533D.9, subsection 2,
3 29 paragraph "e", the repayment period shall not be counted in
3 30 satisfying the ninety-day restriction.
3 31 Sec. 5. NEW SECTION. 533D.10A ELECTRONIC DATABASE.
3 32 1. Each licensee shall, by October 1, 2009, subscribe to,
3 33 report to, and utilize an electronic database tracking
3 34 service, to be developed or selected pursuant to rules adopted
3 35 by the banking division of the department of commerce, that
4 1 permits the licensee to determine whether a maker of a check
4 2 has an outstanding unpaid check or debit authorization that
4 3 is, or reasonably appears to be, connected to a delayed
4 4 deposit service transaction. Each licensee shall require a
4 5 maker of a check to sign a written declaration confirming
4 6 that, pursuant to section 533D.10, subsection 1, paragraph
4 7 "h", the maker of the check is eligible to enter into a
4 8 delayed deposit service transaction.
4 9 2. a. Records of a licensee and the electronic database
4 10 tracking service shall be subject to review and examination by
4 11 the division to determine whether the licensee is in
4 12 compliance with this section and other applicable provisions
4 13 of this chapter.
4 14 b. Information, records, and documents obtained in the
4 15 performance of the review and examination, including the
4 16 amount of any outstanding unpaid check or debit authorization
4 17 and the identity of the maker of the check, are confidential
4 18 and shall not be disclosed by the division and are not subject
4 19 to subpoena. Such information, records, and documents do not
4 20 constitute a public record under chapter 22. The
4 21 superintendent may disclose such information to
4 22 representatives of other state or federal regulatory
4 23 authorities and may release summary complaint information so
4 24 long as the information does not specifically identify the
4 25 complainant. The superintendent may also provide this

4 26 information to the attorney general for purposes of enforcing
4 27 this chapter.
4 28 Sec. 6. EFFECTIVE DATE. The section of this Act enacting
4 29 section 533D.10, subsection 1, paragraph "h", takes effect
4 30 October 1, 2009.

4 31 EXPLANATION

4 32 This bill relates to specified aspects of the regulation of
4 33 delayed deposit service businesses.

4 34 The bill increases the amount which is required to be
4 35 submitted by a person applying to operate a delayed deposit
5 1 service business from \$100 to \$125.

5 2 The bill provides that a licensee must disclose to the
5 3 maker of a check that the licensee cannot initiate debt
5 4 collection procedures, civil court proceedings, or arbitration
5 5 to collect an unpaid check unless the licensee has provided
5 6 the maker of a check the opportunity to repay the obligation
5 7 without any charges, other than the current \$15 penalty, in
5 8 biweekly payments of not more than 10 percent of the face of
5 9 the check until the debt is paid in full. The bill adds that
5 10 during this repayment period the licensee cannot sell or
5 11 transfer the debt owing on the unpaid check and the loan shall
5 12 not be considered to be in default. However, if the maker of
5 13 the check fails to honor the repayment obligation, the bill
5 14 provides that the loan shall be placed in default. The bill
5 15 makes the failure to conform with these provisions a
5 16 prohibited act on the part of the licensee, which could
5 17 subject the licensee to disciplinary action as specified in
5 18 Code section 533D.12.

5 19 Additionally, the bill changes a current provision that
5 20 prohibits a licensee from holding or agreeing to hold a check
5 21 for more than 31 days to a modified provision that the
5 22 licensee cannot hold or agree to hold a check for less than 14
5 23 days. The bill also prohibits a licensee from entering into
5 24 another transaction with the maker of a check who already has
5 25 a transaction outstanding with the licensee or from entering
5 26 into a new transaction within two days of the conclusion of
5 27 the previous transaction, unless the maker acknowledges in
5 28 writing specified restrictions relating to successive
5 29 transactions, applicable penalties, and the opportunity to
5 30 repay the obligation in installments in the event the check is
5 31 not negotiable.

5 32 The bill also prohibits a licensee from entering into a
5 33 transaction that results in the maker of the check being
5 34 indebted to the licensee, or when aggregated with other
5 35 delayed deposit service business licensees, for longer than a
6 1 90-day period during the preceding 12 months. This section of
6 2 the bill takes effect October 1, 2009.

6 3 The bill requires a licensee, by October 1, 2009, to
6 4 subscribe to, report to, and utilize an electronic database
6 5 tracking service developed or selected by the banking division
6 6 of the department of commerce to monitor the number of
6 7 transactions entered into by a maker of a check for purposes
6 8 of complying with this provision. The bill states that
6 9 licensee records and the database shall be subject to review
6 10 and examination by the division, and provides that
6 11 information, records, and documents obtained by the division
6 12 in the performance of such a review or examination shall be
6 13 considered confidential.

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